

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: July 11, 2016

AGENDA ITEM: Barkly Manor Modification (SERJ Development)	
PREPARED BY: Chris Holland, Planning Manager	DIRECTOR APPROVAL:
DEPARTMENT: Community Development	
ATTACHMENTS: 1. Barkly Manor Subdivision (AFN 2416571) 2. Barkly Manor Restrictive Covenant (AFN 2416572) 3. Easement for Public Street and Utilities (AFN 20050406736) 4. Proposed 38 th Avenue NE future Road Alignment Map and Site Plan for SERJ Development	
BUDGET CODE:	AMOUNT:
SUMMARY:	

On December 8, 1975 a 13-lot subdivision, known as Barkly Manor, was recorded with the Snohomish County Auditor (AFN 2416571). The subdivision created a private road, known as 38th Avenue NE. A restrictive covenant (AFN 2416572) was recorded concurrently with the subdivision. The restrictive covenant requires Barkly Manor to remain under single ownership, with the exception of lot 13, until roads within the plat are constructed to current County standards and dedicated to Snohomish County. The covenant runs with the land and is binding on all parties having or acquiring any right, title or interest in the land.

When the Gateway Shopping Center was constructed the future road alignment to serve properties located south of 116th Street NE was established through construction of the traffic signal at 116th Street NE & 38th Avenue NE. The existing private roadway established with the recording of Barkly Manor is not the desired alignment to serve properties located on the south side of 116th Street NE. The road alignment needs to be amended in order to extend to the Easement for Public Street and Utilities obtained from the Tulalip Tribes in 2005 (AFN 200504060736).

The Community Development Department is currently reviewing a commercial site plan application, known as SERJ Development, which includes Sonic and a medical facility, as well as a proposed Arby's and other unknown retail facilities (see attached site plan). In order to construct the development, SERJ Development is proposing to acquire portions of the Barkly Manor subdivision, however, not all lots within the subdivision. This is problematic due to the restrictive covenant (AFN 2416572) which does not allow transfer of ownership unless the private drive of 38th Avenue NE is improved to a public standard and dedicated to City of Marysville in the platted alignment.

Raymond Barkly has proposed dedication of 38th Avenue NE for the ultimate alignment (see attached alignment), subject to recording of the necessary documentation with the Snohomish County Auditor relinquishing the restrictive covenant. In order to do so City

Council would need to authorize the Mayor to execute the recording of all necessary documentation to dissolve the existing restrictive covenant and accept dedication of 38th Avenue NE. This would ultimately result in the City obtaining right-of-way for future 38th Avenue NE in the desired alignment and SERJ Development constructing that portion of 38th Avenue NE passing through its development.

Additionally, staff anticipates conditioning the SERJ Development project upon the dedication of a portion of future 37th Avenue NE. In order to do so, City Council would need to authorize the Mayor to execute the recording of all necessary documentation accepting dedication of 37th Avenue NE, substantially as depicted on the attached draft site plan. This would ultimately result in the City obtaining a portion of the right-of-way for future 37th Avenue NE to be constructed as the area continues to develop.

RECOMMENDED ACTION:

Authorize the Mayor to execute all necessary documentation in order to relinquish the restrictive covenant recorded under Auditor's File Number 2416572, subject to dedication of 38th Avenue NE in a desired alignment substantially similar to that depicted and to execute all necessary documentation accepting dedications of rights-of-way for future 37th and 38th Avenue NE.

BARKLY MANOR

SECTION 9 TWN. 30 N., RG. 5 E., W. M.

SNOHOMISH COUNTY, WASHINGTON

DESCRIPTION

A PORTION OF THE SW 1/4 OF SECTION 9, TWN. 30 N., RG. 5 E., W. M., DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 9; THENCE S 89° 22' 50" E ALONG THE NORTH LINE OF SAID SW 1/4 FOR 872.80 FEET TO THE TRUE POINT OF BEGINNING BEING 137.0 FEET WEST OF THE CONCRETE MONUMENT FOUND AND DESCRIBED IN THE AGREEMENT RECORDED IN VOLUME 801, PAGE 692, DATED JANUARY 9, 1963, RECORDS OF SNOHOMISH COUNTY, WASHINGTON; THENCE S 0° 15' 55" E ALONG A LINE ACCEPTED AS THE BOUNDARY LINE FOR 839.65 FEET TO THE NORTH LINE OF THE RAILROAD SPUR RECORDED IN AUDITOR'S FILE NO. 746344; THENCE N 89° 46' 15" E ALONG THE NORTH LINE OF SAID SPUR FOR 72.43 FEET; THENCE ON A CURVE TO THE LEFT HAVING A RADIUS OF 666.78 FEET AND CONSUMING AN ANGLE OF 34° 32' 26" FOR 401.97 FEET TO THE EAST LINE OF THE NW 1/4 OF THE SAID SW 1/4; THENCE N 1° 06' 03" W ALONG SAID EAST LINE FOR 715.68 FEET TO THE NORTHEAST CORNER OF SAID NW 1/4 OF THE SW 1/4; THENCE N 89° 22' 50" W ALONG SAID NORTH LINE OF THE SW 1/4 FOR 150.07 FEET; THENCE S 1° 06' 03" E FOR 200.0 FEET; THENCE ON A CURVE TO THE RIGHT HAVING A RADIUS OF 363.71 FEET AND CONSUMING AN ANGLE OF 1° 16' 43" FOR 8.12 FEET; THENCE N 89° 22' 50" W ALONG A LINE SOUTH OF A LINE THAT IS 636.0 FEET NORTH OF SAID RAILROAD SPUR FOR 164.34 FEET; THENCE S 1° 03' 39" E FOR 57.74 FEET TO A POINT 266.67 FEET SOUTH OF THE SAID NORTH LINE OF THE SW 1/4; THENCE N 89° 22' 50" W ALONG A LINE SOUTH 266.67 FEET FROM SAID NORTH LINE FOR 105.56 FEET; THENCE N 0° 1' 55" E FOR 266.67 FEET TO THE SAID NORTH LINE OF THE SW 1/4; THENCE N 89° 22' 50" W FOR 24.0 FEET TO THE TRUE POINT OF BEGINNING.
LESS PORTIONS OF 116th AS SHOWN HEREON.

PRIVATE ROAD STATEMENT

PRIVATE ROADS WITHIN THE PLAT ARE NOT ACCEPTABLE FOR DEDICATION TO OR MAINTENANCE BY SNOHOMISH COUNTY UNLESS CONSTRUCTED TO CURRENT COUNTY ROAD STANDARDS.

ACKNOWLEDGMENTS

State of Washington
County of Snohomish

THIS IS TO CERTIFY THAT ON THIS 7th DAY OF November, 1975, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC PERSONALLY APPEARED Raymond S. Barkly AND Carol Ann Barkly, HUSBAND AND WIFE, TO ME KNOWN TO BE THE INDIVIDUALS WHO EXECUTED THE WITHIN DEDICATION AND ACKNOWLEDGED TO ME THAT THEY SIGNED AND SEALED THE SAME AS THEIR VOLUNTARY ACT AND DEED FOR THE PURPOSES THEREIN MENTIONED

WITNESS MY HAND AND OFFICIAL SEAL THE DAY AND YEAR FIRST ABOVE WRITTEN

Richard A. Steinhard
Notary Public in and for the State of Washington residing at Marquette

State of Washington
County of Snohomish

THIS IS TO CERTIFY THAT ON THIS 7th DAY OF November, 1975, PERSONALLY APPEARED BEFORE ME Raymond S. Barkly AND Carol Ann Barkly, TO ME KNOWN TO BE PRESIDENT AND EXECUTIVE VICE PRESIDENT, RESPECTIVELY, BANK OF EVERETT. THE CORPORATION THAT EXECUTED THE WITHIN AND FOREGOING INSTRUMENT, AND WHO ACKNOWLEDGED SAID INSTRUMENT TO BE THE FREE AND VOLUNTARY ACT AND DEED OF SAID CORPORATION, FOR THE USES AND PURPOSES THEREIN MENTIONED AND ON OATH STATED THAT THEY WERE AUTHORIZED TO EXECUTE SAID INSTRUMENT AND THAT THE SEAL AFFIXED IS THE CORPORATE SEAL OF SAID CORPORATION.

IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL THE DAY AND YEAR FIRST ABOVE WRITTEN.

Marlene M. Meier
Notary Public in and for the State of Washington residing at Everett

DEDICATION (DEDICATING PORTIONS OF 116th ST. ONLY, AND NOT PRIVATE ROAD SHOWN HEREON.)

KNOW ALL MEN BY THESE PRESENTS THAT WE THE UNDERSIGNED, OWNERS OF THE LAND HEREBY PLATTED, HEREBY DECLARE THIS PLAT AND DEDICATE TO THE PUBLIC FOREVER ALL ROADS AND WAYS SHOWN HEREON WITH THE RIGHT TO MAKE ALL NECESSARY SLOPES FOR CUTS AND FILLS AND THE RIGHT TO CONTINUE TO DRAIN SAID ROADS AND WAYS OVER AND ACROSS ANY LOT OR LOTS, WHERE WATER MIGHT TAKE A NATURAL COURSE, IN THE ORIGINAL REASONABLE GRADING OF THE ROADS AND WAYS SHOWN HEREON.

FOLLOWING THE ORIGINAL REASONABLE GRADING OF THE ROADS AND WAYS HEREON, NO DRAINAGE WATERS ON ANY LOT OR LOTS SHALL BE DIVERTED OR BLOCKED FROM THEIR NATURAL COURSE SO AS TO DISCHARGE UPON ANY PUBLIC RIGHTS OF WAY OR TO HAMPER PROPER ROAD DRAINAGE. ANY ENCLOSING OF DRAINAGE WATERS IN CULVERTS OR DRAINS OR RE-ROUTING THEREOF ACROSS ANY LOT, AS MAY BE UNDERTAKEN BY OR FOR THE OWNER OF ANY LOT, SHALL BE DONE BY AND AT THE EXPENSE OF SUCH OWNER.

IN WITNESS WHEREOF WE HAVE SET OUR HANDS AND SEALS,

Raymond S. Barkly
BANK OF EVERETT
By: Richard A. Steinhard PRESIDENT

Carol Ann Barkly
BANK OF EVERETT
By: Thomas J. Lemell EXECUTIVE VICE PRESIDENT

LAND SURVEYOR'S CERTIFICATE

I, WILLIAM H. ROBERTS, REGISTERED LAND SURVEYOR, DO HEREBY CERTIFY THAT THIS PLAT IS BASED ON AN ACTUAL SURVEY AND THAT MONUMENTS HAVE BEEN SET AND LOT CORNERS STAKED ON THE GROUND AS SHOWN HEREON

William H. Roberts
Registered Land Surveyor, William H. Roberts
Cert. No. 13825



APPROVALS

EXAMINED AND APPROVED THIS 1st DAY OF Dec., 1975. Harry D. Martin
County Road Engineer

EXAMINED AND APPROVED THIS 8th DAY OF Dec., 1975. C. Eastman
Chmn., Board of County Commissioners

I HEREBY CERTIFY THAT THE WITHIN PLAT IS DULY APPROVED BY THE SNOHOMISH COUNTY PLANNING COMMISSION THIS 1 DAY OF December, 1975.

George Sherwin
Director by Guy Williams

TREASURER'S CERTIFICATE

I, KIRKE SIEVERS, TREASURER OF SNOHOMISH COUNTY, WASHINGTON, DO HEREBY CERTIFY THAT ALL TAXES ON THE WITHIN DESCRIBED TRACT HAVE BEEN PAID UP TO AND INCLUDING THE YEAR 1976

Kirke Sievers County Treasurer By: Maureen Chief Deputy Treasurer

2416571
2196

1950

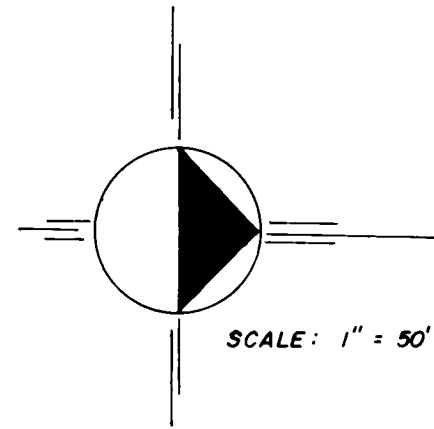
RECORDING

FILED FOR RECORD AT THE REQUEST OF WILLIAM H. ROBERTS AT 12 MINUTES PAST 4 O'CLOCK P. M. ON THIS 8th DAY OF December, 1975. RECORDED IN VOLUME 35 OF PLATS ON PAGE 142 RECORDS OF SNOHOMISH COUNTY, WASHINGTON

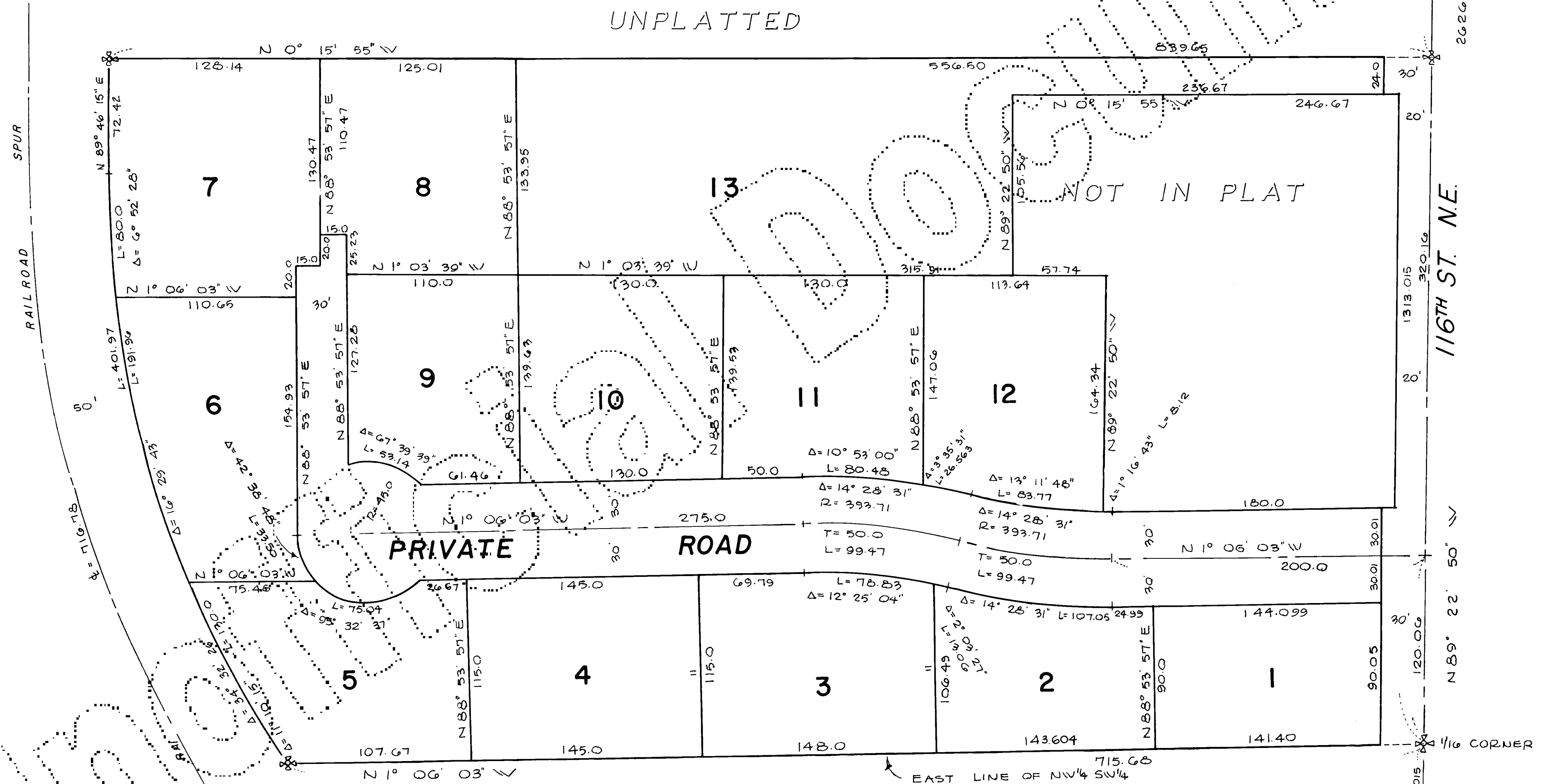
Henry Whalen County Auditor By: Paul Martin Deputy Auditor

BARKLY MANOR

SECTION 9 TWN. 30 N., RG. 5 E., W.M.
SNOHOMISH COUNTY, WASHINGTON



UNPLATTED



UNPLATTED

⊗ INDICATES CONC. MONUMENT SET

2416571
2416571

⊙ CENTER OF SECTION
9 FOUND

Filed for record DEC - 8 1975 ⁴¹³ AM-F18

Request Raymond G Barkly
Henry R. Winton, Snohomish County Auditor

DECLARATION OF COVENANT

Know all men by these presents that I the undersigned owner
RAYMOND G. BARKLY in fee simple of the land described herein,
herely declare this covenant and place same on record.

I the grantor RAYMOND G. BARKLY herein, is owner of BARKLY
MANOR in fee simple of an interest in the following described
real estate situated in Snohomish County, State of Washington,
to wit:

BARKLY MANOR according to plat thereof, as recorded in volume _____
of plate, page _____, records of Snohomish County, Washington.

Now, Therefore, the grantor RAYMOND G. BARKLY agrees and
covenants that said grantor his heirs successors and assigns,
shall retain BARKLY MANOR under single ownership with the
exception of lot #13 until roads within the plat are constructed
to current County standards and dedicated to Snohomish County.

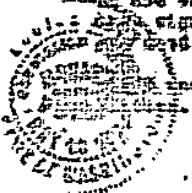
This covenant shall run with the land and shall be binding on
all parties having or acquiring any right, title, or interest
in the land described herein or any part thereof, and shall
inure to the benefit of each owner thereof.

WITNESS our hands this 29th day of November, 1975

Raymond G. Barkly
Grantor

State of Washington)
County of Snohomish)

I, the undersigned, a Notary Public in and for the above named
County and State, do hereby certify that on this 29th day of
November, 1975 personally appeared before me RAYMOND G. BARKLY
and GENE L. BARKLY to be known to me as the individuals described
in and she executed the within instrument, and acknowledges that
she signed and sealed the same as their free and voluntary act
and deed, for the uses and purposes therein mentioned.



Witness my hand and official seal the day and year last above

Henry R. Winton
Notary Public in and for the State of
Washington, residing at _____

Official Seal

2416572

3416572
697
7-507

NO EXCISE TAX
REQUIRED

APR 06 2005

BOB DANTINI, Snohomish County Treasurer

By BOB DANTINI

AFTER RECORDING RETURN TO:

City of Marysville
1049 State Ave.
Marysville, WA 98270



200504060736 4 PGS
04-06-2005 03:42pm \$22.00
SNOHOMISH COUNTY, WASHINGTON

PNWT 157996-1

CITY OF MARYSVILLE

EASEMENT FOR PUBLIC STREET AND UTILITIES

Grantor.	TULALIP TRIBES OF WASHINGTON		
Grantee	CITY OF MARYSVILLE		
Legal Description.	Ptn	SW ¼ & NW ¼ 9-30-05	Add'l on page <u>1 & 2</u>
Tax Parcel ID#	300509-003-033-00		

THIS INDENTURE is made this 31st day of March, 2005, between TULALIP TRIBES OF WASHINGTON, a federally recognized Indian tribe organized pursuant to Section 16 of the Indian Reorganization Act of 1934, as amended, 25 U S C §476, governed by the Board of Directors of the Tulalip Tribes of Washington as provided in Article VI of the Constitution and Bylaws of the Tribes, and recognized as a "public agency" as defined in RCW 39 34 020, hereinafter referred to as "Grantor," and the CITY OF MARYSVILLE, a municipal corporation of the State of Washington, hereinafter referred to as "Grantee", WITNESSETH

WHEREAS, Grantor is the owner of certain lands and premises situated in the County of Snohomish, State of Washington described as follows

That portion of the Northwest Quarter and of the Southwest Quarter of Section 9, Township 30 North, Range 5 East, W M , as described in those conveyances to the United States of America recorded under Auditor's file numbers 746345 and 746283 and transferred to the Tulalip Indian Nation under Auditor's file number 889496 and known as the Wye Connection Depot Railroad.

Situate in the County of Snohomish, State of Washington.

and,

Said document(s) were filed for record by Pacific N W Title as accommodation only. It has not been examined as to proper execution or as to its effect upon title

WHEREAS, Grantee is desirous of acquiring certain rights and privileges across, over, under and upon said lands and premises;

NOW, THEREFORE, Grantor, for valuable consideration, the adequacy and receipt of which is hereby acknowledged, hereby conveys and warrants to the Grantee, its successors and assigns, and its contractors, employees, permittees and licensees, a perpetual, nonexclusive easement for public street and utilities, including, but not limited to, water, sanitary sewers and storm sewers, and other public purposes over, under, through, across and upon the following-described lands and premises situated in the County of Snohomish, State of Washington, to-wit.

That part of the above-described parcel described as follows:

A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 30 NORTH, RANGE 5 EAST, W M DESCRIBED AS FOLLOWS

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER, THENCE ALONG THE WEST LINE OF SAID NORTHEAST QUARTER SOUTH 00°52'23" EAST A DISTANCE OF 598 90 FEET TO THE POINT OF BEGINNING, THENCE CONTINUING ALONG SAID WEST LINE SOUTH 00°52'23" EAST A DISTANCE OF 345 FEET MORE OR LESS TO THE NORTH LINE OF "PARCEL A" OF THE LAND CONVEYED BY AUDITORS FILE NUMBER 7811170059, THENCE EASTERLY ALONG SAID NORTH LINE TO A POINT WHICH LIES 90 00 FEET FROM SAID WEST LINE, WHEN MEASURED AT RIGHT ANGLES TO SAID WEST LINE, THENCE PARALLEL TO AND 90 00 FEET FROM SAID WEST LINE NORTH 00°52'23" WEST A DISTANCE OF 355 FEET MORE OR LESS TO A POINT WHICH BEARS SOUTH 88°46'44" EAST FROM THE POINT OF BEGINNING, THENCE NORTH 88°46'44" WEST A DISTANCE OF 90 06 FEET TO THE POINT OF BEGINNING

SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON

TOGETHER WITH the perpetual right, privilege and authority to construct, reconstruct, alter, change, improve, repair, renew, operate, maintain and patrol the public street and utility improvements, pipes and appurtenances, and the right at anytime to remove said public street, utility lines and appurtenances, or any of them.

AND TOGETHER WITH the right to remove the pump station currently located within the easement area, at Grantee's expense

The Grantor shall make no use of the easement area which is inconsistent with the rights granted to the Grantee hereunder or which endangers the public safety

The Grantor shall not erect any buildings or structures of any nature in the easement area or undertake any activity on the right-of-way area which would disturb the easement improvements or endanger the lateral support of the improvements. If Grantor violates this paragraph, Grantee shall have the right to remove, or require removal of, any obstruction, or to restore, or require restoration of, the easement area to the condition which existed before violation of this paragraph; either of which shall be accomplished within a reasonable period of time and at Grantor's expense

In accepting this easement, Grantee recognizes the Tribe's right and privilege to construct a sixty foot wide transit rail line or roadway in an east to west direction across the above granted easement and makes the City's easement expressly subordinate to the Tribe's right granted herein.

Grantee shall indemnify and hold Grantor harmless from any and all claims or causes of action arising out of Grantee's exercise of the rights conveyed herein, except where such claim or cause of action arises out of or on account of the actions of Grantor.

The Grantor covenants to and with the Grantee that Grantor is lawfully seized and possessed of the land aforesaid; has a good and lawful right and power to sell and convey same, that same is free and clear of encumbrances, except as above indicated, and that Grantor will forever warrant and defend the title to said easement and the quiet possession thereof against the lawful claims and demands of all persons whomsoever. The Grantor further represents, warrants and covenants that the Board of Directors of the Tulalip Tribes of Washington has approved this easement and has authorized the undersigned to execute this easement, and that the undersigned has the requisite authority to bind the Grantor, without further approval of any other public agency including, but not limited to, the Bureau of Indian Affairs and the Federal Department of the Interior.

This conveyance shall be a covenant running with the land, and shall be binding on the Grantor and Grantor's heirs, successors and assigns forever.

The rights, title, privileges and authority hereby granted shall be enforceable in the Snohomish County Superior Court, State of Washington, and shall continue to be in force until such time as the Grantee, its successors or assigns, shall permanently remove said public street, utilities and appurtenances from said lands, or shall otherwise permanently abandon said public street, utilities and appurtenances, at which time all such rights, title, privileges and authority hereby granted shall terminate.

IN WITNESS WHEREOF, this instrument has been executed the day and year first above written.

TULALIP INDIAN RESEF

116TH ST NE

36TH DR NE

3-013

3-014

3-015

3-011

1

3-012 00
01

3-037

37TH AVE NE

12 00
01

2 00
01

3-008

3-007

3-019

3-030

11 00
01

3 00
01

MOBILE MANOR 9600-081

BARKLY MANOR (6460)

13

10 00
01

4 00
01

3-020

3-018

3-029

8

9

5 00
01



1" = 200' ±

200504060736

3-033

TULALIP TRIBES OF WA

3-010

SE-8-30-5

3-021

